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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,031	04/24/2001	Hitoshi Matsui	043034/0168	4261

22428 7590 06/17/2005

FOLEY AND LARDNER  
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WASHINGTON, DC 20007

EXAMINER

PHAN, TAM T

ART UNIT PAPER NUMBER

2144

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/840,031

Applicant(s)

MATSUI, HITOSHI

Examiner

Tam (Jenny) Phan

Art Unit

2144

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-3, 5-7, 9, 10, 12 and 13.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Refer to the Attached "Response to Arguments" document.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: PTO-892.

MARC D. THOMPSON  
MARC THOMPSON  
PRIMARY EXAMINER

*Response to Arguments*

In response to applicant's argument that there is nothing in Fujita that teaches or suggests the use of directionality in his transmitting and receiving antenna and that one of ordinary skills in the art would understand that Fujita's system uses omnidirectional antennas, the Examiner respectfully disagrees. By definition, omnidirectional antenna can transmit or receive signals in all directions and directional antenna can transmit or receive signals in one direction.

Accordingly, the Examiner asserts that Fujita taught both the use of directional antennas and omnidirectional antennas. For example, Fujita disclosed, "A transmitter/receiver tower or wall 3 is installed at a front end section 102 of the respective parking space 1 so that the front end of the passenger car 40 faces the transmitter/receiver tower 3 when parked in the parking space" (column 3 lines 21-24). Fujita further disclosed, "The drive-in media playing facility includes at least one drive-in media playing system that is associated with each one of the parking spaces 1. The drive-in media playing system provides various interactive media that can be selected by users (customers). The interactive media includes, for example, an interactive game, an interactive presentation or a game on the Internet, a karaoke performance and the like. Users (customers) in a car operate a wireless controller/command device 112 to control various interactive media provided by the drive-in media playing system" (column 9 lines 46-56). Thus, the antennas disclosed in Fujita are used directionally to communicate signals with the users occupy the single parked vehicle. In an alternative embodiment, Fujita disclosed "the drive-in karaoke facility 100 may be arranged so that the same karaoke performance can be shared simultaneously by users in different cars parked in corresponding different parking spaces. In this instance, the singing voice of one of the users picked up by the wireless microphone 11 is

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arranged so that the singing voice can be commonly heard by the other users in each of the cars” (column 6 line 64-column 7 lines 4). Thus, Fujita disclosed several embodiments that utilize directional antennas in one embodiment and omnidirectional antennas in another alternative embodiment for his drive-in media system.

In response to applicant's argument that “the common definition of biometrics data is something that relates directly to a biological aspect of a person”, the Examiner recognized the common definition, however, in computer technology, the definition of biometrics is defined as “Traditionally, the science of measuring and analyzing human biological characteristics. In computer technology, biometrics relates to authentication and security techniques that rely on measure, individual biological stamps to recognize or verify and individual identity. Security schemes are generally categorized into three levels: level 1 relies on something the person carries, such as an ID badge with a photo or computer cardkey; level 2 relies on something the person knows such as password or a code number; and level 3, the highest level, relies on something that is part of the person's biological makeup or behavior” (Refer to Microsoft Computer Dictionary 4<sup>th</sup> Edition, published 1999). Since the Fujita and Kolls references as well as the applicant's invention are in the computer technology field, the use of the definition of biometrics in computer technology as defined in the Microsoft Computer Dictionary is valid. In addition, since the Microsoft Computer Dictionary was published in 1999, it is obvious that the definition was developed prior to the invention date of the instant application.

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